

114

UNITED STATES DISTRICT COURT

for the
Southern District of Ohio

United States of America)

v.
Thomas A. Sweeney)
245 Grant Ave.)
Columbus, OH 43215)

Case No. 2:16-MJ-82

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 6/19/15 to 7/9/15 in the county of Franklin in the
Southern District of Ohio, the defendant(s) violated:

Code Section

18 U.S.C. Section 2251(a) & (e)

Offense Description

Use of a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, using materials that have travelled in interstate commerce, after sustaining a prior conviction under the laws of Ohio relating to sexual abuse or abusive sexual contact involving a minor.

18 U.S.C. 2252(a)(2) & (b)(1)

Receipt of visual depictions of a minor engaged in sexually explicit activity via a means or facility of interstate commerce, after sustaining a prior conviction under the laws of Ohio relating to sexual abuse or abusive sexual contact involving a minor.

This criminal complaint is based on these facts:

See attached affidavit incorporated herein by reference.

☒ Continued on the attached sheet.

S-40

Complainant's signature

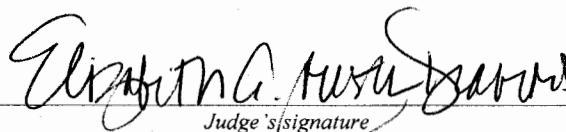
Jeff Zech, HSI TFO

Printed name and title

Sworn to before me and signed in my presence.

Date: Feb. 11, 2016

City and state: Columbus, Ohio



Judge's signature

Elizabeth Preston Deavers, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT, EASTERN DIVISION OF OHIO

In the Matter of the Criminal Complaint for:

United States of America

V.

Thomas A. Sweeney
245 Grant Ave.
Columbus, OH 43215

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Task Force Officer (TFO) Jeff Zech, being first duly sworn, hereby depose and state as follows:

1. I am a Task Force Officer (TFO) with the Immigration and Customs Enforcement, Homeland Security Investigations (HSI), assigned to the Franklin County Internet Crimes Against Children (ICAC) Task Force in Columbus, OH. I make this affidavit in support of an application for a criminal complaint against Thomas A. Sweeney, there being probable cause to believe that SWEENEY has committed violations of Title 18, United States Code, Sections 2251(a) and 2252(a) and (b).

2. This affidavit is based upon your affiant's first-hand knowledge as well as conversations and coordinated efforts with other law enforcement agents. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, your affiant did not include each and every fact known concerning this investigation. Your affiant did not withhold any information or evidence that would negate probable cause. Your affiant has set forth only the facts that are believed to be necessary to establish probable cause that Thomas A. Sweeney committed the violations listed above.

3. In June of 2015, your affiant received information indicating a juvenile (herein referred to as Jane Doe) was sexually solicited by an adult male named Thomas A. SWEENEY. Your affiant learned that SWEENEY was convicted in the Franklin County Court of Common Pleas, of two counts of Rape involving a child under the age of 13 in 2003, in case number 03CR6784. SWEENEY was sentenced to 10 years of incarceration as a result of this conviction, and was thereafter under supervised release by the Ohio Adult Parole Authority. Additionally, SWEENEY was convicted of Failure to Notify Change of Address as a Sexual Offender in 2014, and was on probation in 2015 through the Franklin County Common Pleas Court for this conviction.

4. Upon receiving the information regarding the allegations of SWEENEY's solicitation of Jane Doe, your affiant conducted an investigation during which Jane Doe and her father were interviewed and numerous digital media were analyzed. This investigation has revealed the following facts.

5. According to preliminary information obtained from Jane Doe, she and SWEENEY exchanged text messages in which SWEENEY requested nude pictures and sexual activity from

(15 years old JFS-40)



Jane Doe between the dates of June 19, 2015, and June 20, 2015. Prior to this text message conversation, a personal relationship existed between Jane Doe and SWEENEY, with SWEENEY having knowledge of Jane Doe's age.¹

6. Subsequent to interviewing Jane Doe and her father, Jane Doe's blue Apple I Phone 5 C was turned over to your affiant for further analysis. Your affiant conducted a forensic examination of the i-phone and observed multiple text messages that had been deleted. Due to these messages being deleted, only the message content, date and time, and sent or read data was recovered. No phone number could be associated with any of the text messages.

7. Your affiant subsequently determined that Jane Doe's phone number was assigned to AT&T, and sent a subpoena to AT&T for detailed records for phone number assigned to Jane Doe's phone. The information returned by AT&T included a listing of incoming and outgoing text messages. Although the content was not included in this list, the phone number sending each message and the dates and times that the messages were sent and received was included. Your affiant was able to compare the dates and times of incoming and outgoing text messages listed the AT&T return to the deleted text messages recovered from Jane Doe's i-phone. This comparison revealed the numerous text conversations between Jane Doe and phone number 614-301-3372, which was listed in the contacts section of Jane Doe's phone as "Tom" and later determined to be assigned to SWEENEY. The following is a sample of those conversations:

June 18, 2015:

Jane Doe at 12:07pm: "Hi Thomas Andrew Sweeney"
SWEENEY at 12:08pm: "Yes [[Jane Doe]]"

June 19, 2015:

SWEENEY (2:25pm): "I bet you still have clothes on and can't prove otherwise"
Jane Doe (2:26pm): "Did u get the pic i paused it to shoe u"
SWEENEY (2:26pm): "I bet your still dressed"
SWEENEY (2:26pm): "Yeah don't mean nothing"
Jane Doe (2:27pm): "U think im still dressed"
SWEENEY (2:28pm): "Show me full body I don't think you got the nerve"
SWEENEY (2:29pm): "No bra"
Jane Doe (2:29pm): "Really Okay deal"
SWEENEY (2:29pm): "Send it"
Jane Doe (2:32pm): "Okay deal"
SWEENEY (2:32pm): "Send it"
Jane Doe (2:33pm): "Tht is my vagina"
SWEENEY (2:33pm): "Could I have one with legs open"
SWEENEY (2:34pm): "You shave it"
Jane Doe (2:35pm): "Yes i shave bc i hate a hairy vagina"
Jane Doe (2:40pm): "A bbc a big black cock"
SWEENEY (2:41pm): "Will mine do"

¹ Your affiant has knowledge of the particular nature of the relationship between Jane Doe and SWEENEY. However, public disclosure of the nature of that relationship could result in the identification of the Jane Doe, which would create additional trauma to her. For that reason, your affiant has not indicated the specific nature of the relationship and has omitted certain words from quoted material that would indicate the nature of the relationship.

SWEENEY (2:41pm): "I want a pic of your pussy from between your legs"

...

Jane Doe (2:52pm): "Is it really u [][SWEENEY]"

SWEENEY (2:52pm): "Yes it is why"

SWEENEY (2:52pm): "How do I prove it"

Jane Doe (2:53pm): "Idk it just feels odd to b sending nudes to [][SWEENEY] and send me a pic of ur face"

SWEENEY (2:53pm): "Okay"

SWEENEY (2:54pm): "Its not recent"

...

SWEENEY (3:01pm): "Well send me pics of your pussy from between your legs and then maybe we can have phone sex"

8. Due to SWEENEY being on supervised release and probation, your affiant contacted SWEENEY's parole officer to attempt to interview SWEENEY. On July 9, 2015, your affiant went to the Adult Parole Authority Office to try to interview SWEENEY at the conclusion of SWEENEY's regularly scheduled parole visit with Parole Officer Pugh. SWEENEY refused to be interviewed by your affiant.

9. During SWEENEY's interview with Officer Pugh, SWEENEY stated that he had two black cellular phones with him, but that he left his HTC Smart Phone at the Faith Mission where he was currently residing. At the conclusion of the Officer Pugh's interview of SWEENEY, Pugh and other parole officers determined that it was necessary to go to the Faith Mission and inspect SWEENEY's HTC Smart Phone for potential violations of SWEENEY's conditions of parole. The Adult Parole Authority requested that your affiant inspect SWEENEY's HTC Smart Phone for violations of SWEENEY's parole conditions if it was located at the Faith Mission. Your affiant therefore accompanied Parole Officer Kashchak to the Faith Mission to retrieve SWEENEY's HTC Smart Phone to inspect for violations of SWEENEY's parole conditions. The HTC Smart Phone was located at the Faith Mission on the bed assigned to SWEENEY. Officer Kashchak took possession of SWEENEY's HTC Smart Phone then relinquished it to your affiant. Your affiant took possession of the HTC Smart Phone to examine it for violations of SWEENEY's conditions of parole for Officer Pugh. Upon examination of the HTC Smart Phone, it was determined that SWEENEY did have access to the internet on the phone, which was a violation of SWEENEY's conditions of parole. While conducting the exam to look for violations of SWEENEY's conditions of parole, your affiant observed several images of Jane Doe along with several images of a pornographic nature. Your affiant informed Officer Pugh of the violations found on the phone and maintained custody of the phone pending a search warrant to conduct a further examination.

10. On July 20, 2015, Jane Doe was interviewed by the Child Assessment Center (CAC) at Nationwide Children's Hospital in Columbus, OH. During the interview, Jane Doe stated that in June of 2015, she had been in contact with an individual named "Chelsea," who is SWEENEY's girlfriend from Texas. While Jane Doe was communicating with Chelsea, SWEENEY contacted Jane Doe through text message and told her to stop speaking to Chelsea. Jane Doe stated that approximately 20 minutes later, SWEENEY sent her a text message stating "Hey baby girl." According to Jane Doe, the conversation became sexual in nature, with SWEENEY asking Jane

Doe to send him a picture of her "pussy." Prior to this, SWEENEY sent a Jane Doe picture of his penis. JANE DOE stated that SWEENEY wanted to meet Jane Doe in a park near her house around 10 am the following day to "69" (simultaneous oral sex) and to "make out." Jane Doe stated that SWEENEY stated that he would "commit adultery" with Jane Doe.

11. On July 30, 2015, your affiant conducted a forensic examination of SWEENEY'S HTC Smart Phone, pursuant to a search warrant. During this examination, it was confirmed that the phone number assigned to the phone was 614-301-3372. The examination also revealed several pictures of SWEENEY fully nude standing in a restroom while holding the HTC Smart Phone, as well as several pictures of nude female genitalia. One of these pictures of nude female genitalia had a file creation date of June 19, 2015 at 3:43 PM, which is the approximate date and time SWEENEY and Jane Doe were engaged in the text message conversation during which SWEENEY requested photographs of Jane Doe's nude genitalia. Upon further analysis of the pictures of nude female genitalia, your affiant observed in the background a blanket that was green in color with pink flowers and butterflies. A picture of Jane Doe's face with the same blanket in the background was also located. Your affiant contacted a family member of Jane Doe who was able to positively identify the blanket. The family member turned the blanket over to your affiant who personally confirmed that the blanket turned over by Jane Doe's family member was the same blanket in the background of pictures of nude female genitalia.

12. Multiple text message conversations were also found during the examination of SWEENEY'S HTC Smart Phone. The first text message contained on SWEENEY's phone was dated June 20, 2015 at 2:59 PM; no text messages prior to this date were located. The first text message recovered was sent from SWEENEY to phone number 512-234-2433 with a contact name of "Chelsea." Chelsea has been determined to be SWEENEY's girlfriend who lives in Texas. Several of the text message conversations between SWEENEY and Chelsea indicated that Chelsea had learned of SWEENEY's sexual interest in Jane Doe.

Beginning June 20, 2015 at 2:59 PM –

Chelsea: "I didn't say shit I just told her she is fucked up for it and u could go bk to jail for it so yes that is stupid! And idk I'm at wrk I'm pissed"

Chelsea: "U cheat and u swore u nvr would and it was with [] [Jane Doe]"

SWEENEY: "I didn't say it was okay Chelsea what I did was stupid"

Chelsea: "Or why u fucked her by text"

SWEENEY: "No answer for that either. That was really stupid of me"

From Chelsea: "U fucked [] [Jane Doe] when u told me u didn't ever see her like that an u wu nvr hurt me like that and u wernt like that and how u were trying to change..."

SWEENEY: "I am really sorry for my actions toward you and her last night"

SWEENEY: "What do you want me to say I apologize for my actions and what I did was wrong"

13. On October 9, 2015, S.A. Cameron Bryant with Homeland Security Investigations (HSI) conducted a follow up interview with Jane Doe. During the interview, S.A. Bryant presented five pictures that were extracted from SWEENEY'S HTC Smart Phone for Jane Doe to identify. One of the five pictures presented to Jane Doe was a picture of Jane Doe's face with the green blanket


with pink flowers and butterflies in the back ground. The other four pictures presented were images of nude female genitalia with the green blanket with pink flowers and butterflies in the background. Jane Doe positively identified all 5 pictures as pictures of herself. Jane Doe further stated that she sent SWEENEY approximately five pornographic pictures of herself. During the interview, Jane Doe also confirmed the nature of some of the text messages between her and SWEENEY that she had previously described and further revealed that SWEENEY instructed her to delete all of the text message conversations between them.

14. Subsequent to SWEENEY's Parole visit in July of 2015, SWEENEY's whereabouts were unknown. On August 3, 2015 a confidential source (CS) made contact with the Franklin County Adult Probation Office concerning the whereabouts of SWEENEY. The CS stated that SWEENEY had been communicating with them through Facebook. The CS stated that SWEENEY was currently living in a homeless camp in Ontario, California. The CS stated that SWEENEY was utilizing free wireless internet from a library in Ontario, California to communicate with them and others using a mobile phone. Information received from the CS was transferred to the regional HSI office in California to attempt to locate SWEENEY.

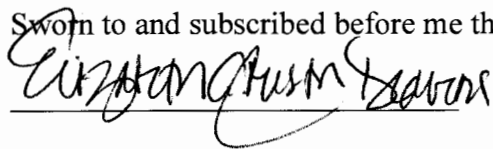
15. On August 4, 2015 HSI Agents in Ontario, California were able to locate SWEENEY outside a public library and took him into custody on the outstanding Ohio Adult Parole Authority arrest warrant. SWEENEY was transferred to Ohio from California and was sentenced to return to prison for violating conditions of Parole. Currently SWEENEY is incarcerated at Noble Correctional Institution for the violations of his Parole and Probation conditions.

16. Through investigative research, your affiant has confirmed that SWEENEY's HTC Smart Phone and Jane Doe's Apple I Phone 5 C were manufactured in China.

17. Based upon the foregoing information, your affiant submits that there is probable cause to believe that Thomas A. SWEENEY has committed offenses in violation of 18 U.S.C. § 2251(a), production of child pornography, and 2252(a)(2), receipt of child pornography. Therefore, your affiant respectfully requests this court issue a criminal complaint and arrest warrant.


Jeff Zech,
Task Force Officer
Homeland Security Investigations

Sworn to and subscribed before me this 11th day of February, 2016.



United States Magistrate Judge
Southern District of Ohio